IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 22ND MARCH, 2007 / 1ST CHAITHRA, 1929

WP(C).No. 14003 of 2006(P)

PETITIONER:

K. VISWANATHAN THAMPI,
ANAKOTTU KIZHAKKATHIL, AMBALATHANIBHAGOM P.O.,
PORUVAZHY, KOLLAM.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:
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1. THE JOINT REGISTRAR (GENERAL)
OF CO-OPERATIVE SOCIETIES, OFFICE OF THE
JOINT REGISTRAR (GENERAL), KOLLAM.

2. THE ASSISTNT REGISTRAR (GENERAL)
OF CO-OPERATIVE SOCIETIES, SASTHAMCOTTA.

3. THE AMBALATHUMBHAGOM SERVICE
CO-OPERATIVE BANK LTD.NO.2836,
AMBALATHUMBHAGOM P.O., PORUVAZHY,
KOLLAM DISTRICT, REPRESENTED BY ITS SECRETARY.

4. THE SECRETARY IN CHARGE OF THE
AMBALTHUMBHAGOM SERVICE CO-OPERATIVE BANK
LTD.NO.2836, AMBALATHUMBHAGOM P.O.,
PORUVAZHY, KOLLAM DISTRICT.

ADDL.R-5. S.SIVAN PILLAI, PRESIDENT OF
AMBALATHUMBAGHAM SERVICE CO-OPERATIVE BANK
LTD.NO.2836, PUTHAN PURAYIL HOUSE,
AMBALATHUM BHAGAM, PORUVAZHY,
KOLLAM DISTRICT.

Addl.R5 is impleaded as per order dated 13.2.2007 in I.A.No.8887/2006.

BY ADV. SRI.K.DIVAKARAN NAIR
By SR.G.P.SRI.P.K.RAVIKRISHNAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD

ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE

FOLLOWING:

APPENDIX (WP(C) NO.14003 OF 2006)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the resolution dtd.7.10.2005 adopted by the Society.

Ext.P2: Copy of the order in C.R.P(2) 6045/05 dtd.30.12.2005.

Ext.P3: Copy of the resolution adopted by the Society dated 20.1.2006.

Ext.P4: Copy of the complaint preferred by the petitioner dtd.24.2.2006.

Ext.P5: Copy of the communication issued by R1 dtd 2.3.2006.

Ext.P6: Copy of the communication issued by the President of the Society dtd.9.5.2006.

Ext.P7: Copy of the resolution adopted by the Society dtd.21.3.2006.

Ext.P8: Copy of order issued by the Secretary in charge of the Society dated 12.6.2006.

RESPONDENTS' EXHIBITS:

Ext.R5(a): Copy of resolution No.243 dtd.21.3.2006.

Ext.R5(b): Copy of appointment order dtd.12.6.2006.

-True Copy-

P.A.to Judge.

S.SIRI JAGAN, J.

W.P(C) NO.14003 OF 2006 - P

Dated this the 22nd day of March, 2007

J U D G M E N T

The petitioner was initially appointed as a Salesman on commission basis in a Neethi Store run by the third respondent-Bank. Later, the Bank adopted a resolution to regularise the service of the petitioner with retrospective effect which resolution was duly approved by the Joint Registrar. However, the consequential orders regularising the service of the petitioner have not been implemented by the third respondent. In the above circumstances, the petitioner has approached this Court with the following prayers:-

> "i. issue a writ of mandamus commanding respondents 3 and 4 to implement Exts.P1 and P2 in its letter and spirit by regularizing the service of the petitioner with effect from 27.09.97 with all consequential benefits including salary arrears with interest thereof forthwith;
> ii. issue a writ of certiorari quashing Exts.P3 and P7 resolutions to the extent it limit the benefit of Exts.P1 and P2 from 1.4.2002 only;
> iii. Issue a writ of mandamus or appropriate direction commanding the respondents 1 and 2 to take consequential action on the complaint submitted by the petitioner and initiate

appropriate disciplinary action against the Secretary in charge of the Society for the willful and deliberate inaction caused in the matter by not implementing Exts.P1 and P2;

iv. award the cost of the proceedings to the petitioner;

and

v. issue such other writ, order or direction as this Honourable Court may deem fit and proper in the circumstances of this case."

2. The additional fifth respondent who is the President of the third respondent-Bank has filed a counter affidavit. In para 3 of which, it is stated thus:-

> "3. The financial position of the Co-operative Bank does not permit granting monetary benefit to the petitioner with retrospective effect from 1997. Therefore, in Ext.R5(a) it is specifically stated that salary can be paid to the petitioner by the bank with retrospective effect from 1.4.2002 onwards only. At the same time, the bank has no objection in counting the service of the petitioner from 1997 onwards for pension, and other benefits."

Counsel for the petitioner submits that the petitioner is satisfied with the reliefs offered as per the above said statement in the counter affidavit of the fifth respondent. However, he seeks that consequential orders may be directed to be passed within a time frame.

3. Heard both sides. In the facts and circumstances of the case, I direct the third respondent- Bank to regularise the service of the petitioner with retrospective effect from 27.9.1997, but with monetary benefits only from 1.4.2002. For all other purposes, his service from 1.4.1997 except for monetary benefits would be counted. Orders in this regard as stated in para 3 of the counter affidavit of the fifth respondent shall be passed within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of with the above direction.

S.SIRI JAGAN,
Judge

Mbs/